

Welcome to the 1999 Seminar for Legal Assistants sponsored by the United States Bankruptcy Court for the Eastern District of North Carolina.

This workbook is designed to be used as a reference tool for filing documents with the court. It contains a court directory, court hours and holidays, the fee schedule and filing requirements and procedures for filing documents with the court.

It is our hope that this will be a valuable learning experience for all attending and that this workbook will be a useful reference guide. Again, welcome to the seminar.



Other Training Opportunities Offered by the Bankruptcy Court

The Clerk's office is proud to offer the Bankruptcy Court Orientation Program to all interested attorneys and legal assistants. This is a two-day workshop designed to familiarize people with how the clerk's office operates. Day one of the program consists of a half day program presented by the Bankruptcy Administrator's office followed by a half day program presented by the Clerk's office. A reference book is provided to all participants. The clerk's office presentation covers the contents of the reference book, a demonstration of computer programs such as use of the Internet, imaging and the creditor matrix program. All participants are given an office tour and introduced to court personnel. Day two of the program consists of working with a case administrator. Participants are walked through what happens to paperwork once received in the clerk's office.

If interested in signing up for this program, please contact:

Laura Whitehead, Training Specialist - (252) 237-0248, extension 124

Visit Us At Our Website

www.nceb.uscourts.gov

You can access court calendars and docket information through the Internet. The site also includes general bankruptcy information, inclement weather bulletins, court holiday schedule, court newsletters, the Local Rules, etc. You can also view and print case documents for cases filed in the Wilson and Raleigh offices from your computer.

The website is constantly expanding. Your opinions count! If there are features you would like to see added to the court's website, please let us know.



Court Directory

Chief Judge.....A. Thomas Small
Room 220
300 Fayetteville Street Mall, Century Station
P. O. Drawer 2747
Raleigh, NC 27602-2747
(919) 856-4603

Secretary to JudgeLinda H. Weaver

Law ClerkNikole Byrd

Judge.....J. Rich Leonard
1760 Parkwood Blvd.
P. O. Drawer 2807
Wilson, NC 27894-2807
(252) 291-6413

Law ClerkSusan Hauser

Law Clerk.....Chad Warpula

Clerk of Court.....Peggy B. Deans
1760 Parkwood Blvd.
P. O. Drawer 2807
Wilson, NC 27894-2807
(252) 237-0248 or 237-0440

Bankruptcy AdministratorMarjorie K. Lynch
1800 Parkwood Blvd.
P. O. Box 3758
Wilson, NC 27894-3758
(252) 237-6854

Clerk's Office
Wilson Division Staff

Chief Deputy ClerkWayburn M. Mills

Personnel SpecialistBarbara Tyson

Administrative SupervisorBarbara Langston

Budget AnalystJudy Exum

Financial AdministratorBetty Jean Price

Operations SupervisorJulie Boyette

Systems ManagerJeffrey Elmore

Training SpecialistLaura Whitehead

Senior Case AnalystGail Walston

Courtroom DeputyFelecia Graham

Case AnalystTeresa Artis

Case AnalystBeth Pittman

Case Administrators (Chapter 7, 11, 12 & 13)Lynn Boyd
Carolyn Baker
Lois Ellis
Lisa Keel
Donna King
Gloria Leak
Belinda Witcher
Dana Sebastian
Donna Skinner
Donna Harris
Kathy Webb
Wendy Parker

Assistant Systems ManagerChris Barnes

Computer ProgrammerBobby Boone

Automation Support SpecialistTracey Pearce

Wilson Clerk's Office Staff

Records AnalystDebra Glover

Records Administrator.....Shelia Fields

Records AdministratorLisa Bryant

Clerk's Office
Raleigh Division Staff

Deputy-In-Charge	Mona Ellis
Administrative Analyst	Duane Haddock
Courtroom Deputy.....	Christine Castelloe
Case Analyst	Marty Lewis
Case Administrators (Chapter 7, 11, 12 & 13)	Tina Roberson Anne Moell Allyson McNeill Kelly O'Neill Janette Woods
Automation Specialist	Yvonne Kingsley

Bankruptcy Administrator's Staff

Estate Analyst	Anna Osterhout
Estate Analyst	June Lucas
Administrative Analyst	Jan Hicks
Administrative Analyst	Karen Taylor
Budget Analyst	Carole Deal
Chapter 7 Estate Administrator	Lynn Marraffa Tingen
Clerk, Estate Administration	Tanya Corbett

How to Reach Case Administrators in the Wilson Office

Case Administrator	Handles Cases Ending In	Extension Number
Lynn Boyd	00 - 08	135
Gloria Leak	09 - 13	121
Kathy Webb	14 - 18	120
Lisa Keel	19 - 27	131
Carolyn Baker	28 - 36	164
Belinda Witcher	37 - 45	130
Donna Harris	46 - 54	141
Donna King	55 - 63	136
Wendy Parker	64 - 72	158
Donna Skinner	73 - 81	127
Lois Ellis	82 - 90	137
Dana Sebastian	91 - 99	162

Senior Case Analyst
Gail Walston - Extension 126

Case Analyst
Teresa Artis - Extension 128

Case Analyst
Beth Pittman - Extension 133

Calendar Deputy
Felecia Graham - Extension 157
** If Felecia is not in, contact Laura Whitehead - Extension 124

For Computer Assistance Contact
Tracey Pearce - Extension 132

How to Reach Case Administrators in the Raleigh Office

Case Administrator	Handles Cases Ending In	Extension Number
Kelly O'Neill	1 - 2	140
Anne Moell	3 - 4	103
Allyson McNeill	5 - 6	126
Tina Roberson	7 - 8	102
Janette Woods	9 - 0	100

Administrative Analyst
Duane Haddock - Extension 104

Case Analyst
Marty Lewis - Extension 101

Courtroom Deputy
Christine Castelloe - Extension 107
** If Christine is not in, contact Duane Haddock - Extension 104

For Computer Assistance Contact
Yvonne Kingsley - Extension 125

Business Hours of the Court

The public hours of the office of the clerk are from 8:30 am - 4:30 pm Monday - Friday. The court is

closed for all federal holidays. Emergency filings during non-public hours are subject to approval by the clerk. Before sending runners or office personnel to the court to file documents when they cannot reach the court before closing, call the court to get approval. There is a drop box located in the hall outside the clerk's offices for after hours filings between 8:00 - 8:30 am and 4:30 - 5:00 pm.

Federal Holidays

New Year's Day - January 1
Martin Luther King Jr.'s Birthday - 3rd Monday in January
President's Day - 3rd Monday in February
Memorial Day - Last Monday in May
Independence Day - July 4
Labor Day - 1st Monday in September
Columbus Day - 2nd Monday in October
Veterans Day - November 11
Thanksgiving Day - 4th Thursday in November
Christmas Day - December 25

Bankruptcy Court Fee Schedule (28 U.S.C. 1930)

Chapter 7 Voluntary Petition	\$175.00
Chapter 13 Voluntary Petition	\$160.00
Chapter 11 Voluntary Petition	\$830.00
Chapter 12 Voluntary Petition	\$230.00
Adversary Complaint	\$150.00
Amendment Fee	\$ 20.00
Conversion Fee	\$ 15.00
Conversion Fee to Chapter 11	\$400.00
Certification Fee	\$ 5.00
Copy Fee	50 cents per page
Copy of Tape (court hearing)	\$ 15.00
Deconsolidation Fee	½ current filing fee
Motion to Reopen	current filing fee (do not include misc. administrative fee)
Notice of Appeal	\$105.00 (\$5.00 filing fee - \$100.00 docketing fee)
Record Search	\$ 15.00 for each record searched
Retrieval Fee	\$ 25.00 (to retrieve file from the Federal Records Center)
Returned Check Fee	\$ 25.00
Stay/Abandonment Motion	\$ 75.00

**** This is not a complete listing of all fees. This chart includes the most frequently used fees. Please see 28 U.S.C. 1930 for the complete fee schedule.**

Voluntary Petitions

General Filing Requirements

Fee Requirements:

Chapter 7 - \$175.00

Chapter 13 - \$160.00

Chapter 11 - \$830.00

Chapter 12 - \$230.00

** An application to pay filing fees in installments may be filed by an individual debtor.

Copy Requirements:

Chapter 7 - Original + 1 copy

Chapter 13 - Original + 1 copy

Chapter 11 - Original + 5 copies

Chapter 12 - Original + 2 copies

Signature Requirements:

- petition must be signed by the debtor(s)
- petition must be signed by the attorney (If the attorney fails to sign the petition, it is accepted for filing as a pro se case unless the attorney signature is obtained by 4:30 pm on the date of filing. The attorney is called by the clerk's office and advised of the deficiency. It is acceptable to fax the signature page and mail the original. If the signature is not received on the date of filing, the attorney will need to file a notice of appearance and serve it on all creditors.)

Contents of Petition:

When a new petition is received by the clerk's office, the following are checked:

- appropriate filing fee received (check made payable to Clerk, U. S. Bankruptcy Court and signed)
- signature of debtor(s) and attorney
- mailing matrix (diskette or e-mail plus a hard copy for the file)
- certification of mailing matrix
- disclosure of compensation
- plan (chapter 13 only)
- list of 20 largest unsecured creditors (chapter 11 only)
- schedule A - real property
- schedule B - personal property
- schedule C - claim of exemptions
- schedule D - creditors holding secured claims
- schedule E - creditors holding unsecured priority claims
- schedule F - creditors holding unsecured non-priority claims
- schedules I & J - current income and expenditures
- statement of affairs

A deficiency memo is sent to the debtor(s) attorney for any items which are omitted from the petition. Please make every effort to correct the deficiencies within the time frame set out in the deficiency memo.

Accelerated Filings

When a petition must be filed in an emergency situation, a petition may be filed on an accelerated basis. The following are necessary in order for the accelerated petition to be acceptable for filing:

- Voluntary petition page
- Signature page with appropriate signatures
- Appropriate filing fee or application to pay filing fee in installments
- Mailing matrix
- List of 20 largest unsecured creditors (chapter 11 only)

Once the petition is filed, you will be mailed a Notice of Possible Dismissal. The purpose of the notice is to let parties know that the schedules and statements are due within 15 days of the date the petition was filed. In Chapter 13 and Chapter 12 cases, failure to timely submit the schedules will result in dismissal of the case. In Chapter 7 and Chapter 11 cases, failure to timely submit the schedules will result in a show cause hearing.

How the Court Assigns Cases

There are currently two Bankruptcy Judges in the Eastern District of North Carolina. They are:

Chief Judge A. Thomas Small

Judge Small is assigned all Raleigh and Fayetteville division cases.

Judge J. Rich Leonard

Judge Leonard is assigned all Wilson, New Bern, Wilmington and Elizabeth City division cases.

The court is divided into six locations as follows:

Division	Counties Covered	341 Meeting Location
Wilmington	Bladen, Duplin, New Hanover, Columbus, Pender & Brunswick	Wilmington, NC
Wilson	Wilson, Greene, Wayne, Edgecombe, Nash, Halifax & North Hampton	Wilson, NC
Elizabeth City	Hertford, Gates, Pasquotank, Washington, Tyrell, Dare, Bertie, Camden, Currituck, Perquimans & Chowan	Ch. 7 - Elizabeth City, NC Ch. 13 - New Bern, NC
New Bern	Martin, Beaufort, Hyde, Pitt, Craven, Lenoir, Jones, Pamlico, Carteret & Onslow	New Bern, NC
Fayetteville	Cumberland, Sampson & Robeson	Fayetteville, NC
Raleigh	Warren, Granville, Vance, Franklin, Johnston, Harnett & Wake	Raleigh, NC

**** Raleigh Division cases are filed in the Raleigh Clerk's Office. ****

341 meetings for chapter 11 cases are held in Wilson and Raleigh only. Raleigh division cases are scheduled in Raleigh. All other cases are scheduled in Wilson.

How Trustees Are Assigned

Chapter 7 Cases

Elizabeth City Division
Trustee: Joseph N. Callaway

Fayetteville Division
Trustees: Ocie F. Murray, Shawna Y. Staton and Michael P. Peavey

New Bern Division
Trustees: Randy D. Doub, David M. Warren and Ernest Richardson, III

Raleigh Division:
Trustees: Holmes P. Harden, Gerald A. Jeutter, Richard D. Sparkman, Gregory B. Crampton & Terri Gardner

Wilmington Division
Trustees: Algernon L. Butler, Jr., James Oliver Carter and David M. Warren

Wilson Division
Trustees: Stephen L. Beaman and Walter L. Hinson

Chapter 13 Cases

Wilson Division
Trustee: Robert R. Browning

Fayetteville Division
Trustee: Trawick H. Stubbs, Jr.

Raleigh Division
Trustee: John F. Logan

Elizabeth City Division
New Bern Division
Trustee: Richard M. Stearns

Wilmington Division
Trustees: Richard M. Stearns and Robert R. Browning

Chapter 12 Cases

Richard M. Stearns is trustee for all chapter 12 cases.

Note

When submitting petitions for filing, please make sure the petitions are submitted to the correct clerk's office based on the debtor(s) county of residence. There are some locations that part of the county is in one district and the other half is in another district. i.e., Spring Lake, NC is in Cumberland and Harnett counties. The Cumberland county portion is filed in the Wilson office and the Harnett county portion is filed in the Raleigh office.

Assembling the Petition

The petition is assembled in the following sequence:

- # voluntary petition page
- # signature page
- # statement of financial affairs
- # schedules A - J
- # summary of debts and property
- # disclosure of compensation
- # list of 20 largest unsecured creditors (Chapter 11 only)
- # list of equity security holders (Chapter 11 only)
- # plan (chapter 13 only)
- # verification of matrix
- # hard copy of matrix

Do not staple the original petition. Paperclip the original and staple the copies. This requirement is a result of the court imaging original documents. Documents cannot be scanned with staples in them as it interferes with the scanning equipment.

The original petition should be two hole punched; centered at the top of each page.

Chapter 7

The purpose of a Chapter 7 liquidation is to allow a debtor with too much debt to obtain a fresh start, free from creditor harassment and free from the worries and pressures of too much debt. This is accomplished through an orderly liquidation of the debtor's assets by a trustee and the equitable distribution of all non-exempt assets to creditors.

Filing Requirements For Chapter 7:

- a. Filing fee of \$175.00 required unless the voluntary petition is an individual and is accompanied by an application to pay the filing fee in installments.
- b. Signature of the debtor(s) under the prayer for relief and penalty of perjury. Signature of the attorney. If the petition is submitted without the signature of the attorney, the petition is filed as pro se. The attorney must file a notice of appearance and serve on all creditors unless the signature is faxed to the clerk's office on the date of filing. The original signature page should be mailed to the clerk's office as well.
- c. Names and addresses of all creditors must be submitted with the petition - not required if the debtor submits a schedule of liabilities (Schedules D, E, F) with the petition.
- d. Schedule of assets (Schedules A & B) and liabilities (Schedules D, E & F) and claim of exemptions (Schedule C) must be submitted with the petition or within 15 days.
- e. Statement of Financial Affairs must be submitted with the petition or within 15 days.
- f. Schedule of current income and expenditures. All debtors must file this schedule and it must be submitted with the petition or within 15 days.
- g. The Summary of Debts and Property must be submitted with the petition or within 15 days.
- h. Statement disclosing compensation paid or promised to be paid to the attorney for the debtor must be submitted with the petition or within 15 days.
- i. Schedule of executory contracts and unexpired leases must be submitted with the petition or within 15 days.
- j. Verification of mailing matrix.
- k. Mailing Matrix - should contain the complete mailing address, including zip code for the

following:

- all creditors listed in the petition, alphabetically arranged
- IRS, NC Department of Revenue, Employment Security Commission, only if listed in the petition; US Attorney, if a government agency (SBA, FmHA, VA or FHA) is listed as a creditor.
- if the debtor is a corporation, list each officer, insider and managing executive
- if the debtor is a partnership, list each member of the partnership

Chapter 11

The purpose of a Chapter 11 business reorganization case is to restructure a business's finances so that it can continue to operate, provide employees with jobs, pay its creditors, and produce a return for its stockholders. Chapter 11 provides a breathing spell for a troubled business so that it can work out a plan for reducing or extending its debt and, after confirmation of the plan, be returned to a viable state. Chapter 11 can also be used as a method of liquidation of a business through a plan. Although most Chapter 11 cases involve businesses, the United States Supreme Court concluded that an individual debtor not engaged in business is eligible to reorganize under Chapter 11.

Filing Requirements for Chapter 11

- a. Filing fee of \$830.00 required unless the voluntary petition is for an individual and is accompanied by an application to pay the filing fee in installments.
- b. Signature of the debtor(s) under the prayer for relief and penalty of perjury. Signature of the attorney. If the petition is submitted without the signature of the attorney, the petition is filed as pro se. The attorney must file a notice of appearance and serve on all creditors unless the signature is faxed to the clerk's office on the date of filing. The original signature page should be mailed to the clerk's office as well.
- c. Names and addresses of all creditors must be submitted with the petition - not required if the debtor submits a schedule of liabilities (Schedules D, E, F) with the petition.
- d. Schedule of assets (Schedules A & B) and liabilities (Schedules D, E & F) and claim of exemptions (Schedule C) - only for individuals - must be submitted with the petition or within 15 days.
- e. Statement of Financial Affairs must be submitted with the petition or within 15 days.
- f. Schedule of current income and expenditures (budget - only for individuals). All debtors must file this schedule and it must be submitted with the petition or within 15 days.
- g. The Summary of Debts and Property must be submitted with the petition or within 15 days.
- h. Statement disclosing compensation paid or promised to be paid to the attorney for the debtor must be submitted with the petition or within 15 days.
- i. Schedule of executory contracts and unexpired leases is submitted with the petition or within 15 days.

- j. List of 20 largest unsecured creditors with complete addresses and amounts.
- k. List of the debtor's equity security holders with complete addresses is submitted with the petition or within 15 days.
- l. Verification of mailing matrix.
- m. Mailing Matrix should contain the complete mailing address, including zip code for the following:
 - all creditors listed in the petition, alphabetically arranged
 - IRS, NC Department of Revenue, Secretary of Treasury, Securities and Exchange Commission (Atlanta).
 - if the debtor is a corporation, list each officer, insider and managing executive
 - if the debtor is a partnership, list each member of the partnership

Chapter 12

The purpose of a Chapter 12 is to give family farmers facing bankruptcy a fighting chance to reorganize their debts and keep their land. It offers family farmers the important protection from creditors that bankruptcy provides while at the same time preventing abuse of the system and ensuring that farm lenders receive a fair repayment.

FILING REQUIREMENTS FOR CHAPTER 12

- a. Filing fee of \$230.00 required unless the voluntary petition is for an individual and is accompanied by an application to pay the filing fee in installments.
- b. Signature of the debtor(s) under the prayer for relief and penalty of perjury. Signature of the attorney. If the petition is submitted without the signature of the attorney, the petition is filed as pro se. The attorney must file a notice of appearance and serve on all creditors unless the signature is faxed to the clerk's office on the date of filing. The original signature page should be mailed to the clerk's office as well.
- c. Names and addresses of all creditors must be submitted with the petition - not required if the debtor submits a schedule of liabilities (Schedules D, E, F) with the petition.
- d. Schedule of assets (Schedules A & B) and liabilities (Schedules D, E & F) and claim of exemptions (Schedule C) - only for individuals - must be submitted with the petition or within 15 days.
- e. Statement of Financial Affairs must be submitted with the petition or within 15 days.
- f. Schedule of current income and expenditures. All debtors must file this schedule and it must be submitted with the petition or within 15 days.
- g. The Summary of Debts and Property must be submitted with the petition or within 15 days.
- h. Statement disclosing compensation paid or promised to be paid to the attorney for the debtor must be submitted with the petition or within 15 days.
- i. Schedule of executory contracts and unexpired leases is submitted with the petition or within 15 days.
- j. Verification of mailing matrix (required when petition is filed).
- k. Mailing Matrix should contain the complete mailing address, including zip code for the

following:

- all creditors listed in the petition, alphabetically arranged
- IRS
- if the debtor is a corporation, list each officer, insider and managing executive
- if the debtor is a partnership, list each member of the partnership

Chapter 13

The purpose of a Chapter 13 is to enable individuals with regular incomes, under court supervision and protection, to develop and perform under a plan for the repayment of debts over an extended period. The plan may call for full or partial repayment. The only restriction is the amount of indebtedness owed by the debtor.

- secured indebtedness cannot exceed \$807,750

- unsecured indebtedness cannot exceed \$269,250

FILING REQUIREMENTS FOR CHAPTER 13

- a. Filing fee of \$160.00 required unless the voluntary petition is an individual and is accompanied by an application to pay the filing fee in installments.
- b. Signature of the debtor(s) under the prayer for relief and penalty of perjury. Signature of the attorney. If the petition is submitted without the signature of the attorney, the petition is filed as pro se. The attorney must file a notice of appearance and serve on all creditors unless the signature is faxed to the clerk's office on the date of filing. The original signature page should be mailed to the clerk's office as well.
- c. Names and addresses of all creditors must be submitted with the petition - not required if the debtor submits a schedule of liabilities (Schedules D, E, F) with the petition.
- d. Schedule of assets (Schedules A & B) and liabilities (Schedules D, E & F) and claim of exemptions (Schedule C) - only for individuals - must be submitted with the petition or within 15 days.
- e. Statement of Financial Affairs must be submitted with the petition or within 15 days.
- f. Schedule of current income and expenditures. All debtors must file this schedule and it must be submitted with the petition or within 15 days.
- g. The Summary of Debts and Property must be submitted with the petition or within 15 days.
- h. Statement disclosing compensation paid to or promised to be paid to the attorney for the debtor must be submitted with the petition or within 15 days.
- i. Schedule of executory contracts and unexpired leases must be submitted with the petition or within 15 days.
- j. Chapter 13 Plan.
- k. Verification of mailing matrix.

1. Mailing Matrix should contain the complete mailing address, including zip code for the following:
 - all creditors listed in the petition, alphabetically arranged
 - IRS, NC Department of Revenue, Employment Security Commission, only if listed in the petition

Mailing Matrix Format

All bankruptcy petitions submitted for filing must be accompanied by a paper matrix. The matrix must

also be submitted in an ASCII delimited format on diskette or by E-mail.

In order to ensure that creditor names and addresses are scanned to create a clear image for display on the Internet and properly read by the Optical Character Reader (OCR) for transfer into the court's database, compliance to specific standards and requirements are necessary. The following information is divided into segments to provide instructions for creating the matrix, saving the data for transmission, and transmitting data to the court.

Creating the Matrix

- The paper matrix should be prepared on plain white 8 ½ x 11 unruled or blocked paper and shall not contain any extra marks such as letterhead, dates, debtor name, stains, or handwritten marks on the front of the matrix. The debtor(s) name and social security number must be shown on the back of the matrix.
- The only writing on the paper matrix should be the typed names and addresses of the creditors. The certification of mailing matrix must be attached as a separate page from the matrix. Do not include the certification of mailing matrix on the diskette or the E-mail.
- The content of the paper mailing matrix and the diskette or E-mail mailing matrix must be identical and certified accordingly by the Certification of Mailing Matrix as required by E.D.N.C. LBR 1007-1. The Certification of Mailing Matrix is filed with the paper matrix.
- Use good letter quality print to print the matrix. The ability of the OCR to read creditor matrices prepared using dot matrix printers varies with the quality of the dot matrix printer used. The greater the number of pins, the better the quality of the print. LaserJet or InkJet printers provide better quality than dot matrix printers.
- Provide the original paper matrix. Poor quality photocopies are not readable by the scanner.
- **Do not** include the following parties on the creditor matrix:
 - Debtor
 - Joint Debtor

Attorney for the Debtor(s)
Bankruptcy Administrator
Trustee

The names and addresses of these parties are added when the case is opened on the computer.

- List creditors in alphabetical order.
- Names should be first name <space> last name.
- Do not use unreadable type faces or print styles such as proportionally-spaced fonts or exotic fonts (such as Olde English or script) or bold print. Twelve (12) pitch Times New Roman and Courier New fonts create good print quality that allows the Optical Character Reader (OCR) to accurately read the matrix.
- Creditor names and addresses must be typed so that letters are no closer than 1 ½ inches from any edge of the paper.
- Each line of the address may have a maximum of 35 characters.
- The maximum number of lines per address is 4.
- Please make every effort to obtain a complete address for each creditor.
- Leave one blank line between each address.
- Never use the following symbols in name and/or addresses on the creditor matrix:
 - Ampersand (&). Type the word “and” instead.
 - Percent (%). If used to signify “care of” in a creditor’s address, type instead.
- Do not type a lower case “L” to signify the numeral one (1).
- Do not type the upper or lower case letter “o” to signify the numeral zero (0).
- Avoid misaligned lists caused by removing the paper from the typewriter before completing the list, or inserting the paper into the typewriter crooked.
- Type in upper and lower case as you would on a letter.
- States should be abbreviated using two capital letters without periods or other punctuation.
- A comma must appear between the city and the state.
- The last line of the matrix must be the city, state, zip code.

- **Do not** type the attention line on the last line of the address. The attention line should be the second line of the address.
- **Do not** include account numbers in the address.
- The zip code must be typed on the last line of each address. If only a five digit zip code is used, do not add 0000s to make it nine digits. Separate the two groups of digits in the zip code with a dash, not a space.

Saving the Matrix and Data

- If you are using a computer program to create a bankruptcy petition, you should have a feature which allows you to export creditor information to a diskette. The vendor's technical support staff can assist you if you have questions.
- If you are preparing the matrix using a word processor, the court can furnish you with a matrix program at no charge (program can be downloaded from court's website). Your computer must be IBM compatible with Windows 3.1 or Windows 95. This program does not work in DOS.
- When saving the matrix on a diskette, the file name must be the debtor's social security number or tax identification number set up as follows: social security # 123-45-6.789 - tax identification # 56-1234.567

Transmitting the Matrix and Data to the Court

The mailing matrix must be submitted in one of the following two methods:

1. E-mail the matrix via the Internet to:
Wilson Cases: **Matrix@nceb.uscourts.gov**

Raleigh Cases: **Matrix_Ral@nceb.uscourts.gov**
 2. Submit the matrix on diskette along with the petition with the file saved as a ASCII delimited text file.
- An original paper matrix and certification of mailing matrix must continue to be submitted with the original petition.
 - Transmit the matrix by E-mail as soon as it is available. E-mails are occasionally delayed and may arrive a day after the petition is received. Therefore, immediate transmission will improve coordination of the receipt of the matrix and the petition.

- The E-mail message must state the debtor's full name, social security number and chapter of the case.
- Indicate in a cover letter attached to the original petition the date the matrix was sent to the court by E-mail.
- The contents of each diskette must be properly identified by a label on the diskette indicating the debtor's full name, social security number and chapter of the case. Several matrices may be placed on one diskette. The label should be securely attached to prevent loss of the label in the mail.
- Matrix submitted on diskette should be in one column format using the left column. Paper matrix should be submitted in a three column format.
- **Do not** send a completely new matrix on diskette for an amendment or when filing updated statement and schedules.

Amendments

The amendment is governed by Bankruptcy Rule 1009 and Local Bankruptcy Rule 1009-1. Any amendment to a petition, list, schedule or statement shall be

accompanied by a certificate of service in the form of a statement of the date and manner of service and of the names and addresses of the persons served and certified as correct by the person making the service.

Filing Requirements:

- Original amendment is required (one additional copy and a self-addressed stamped envelope is submitted if a return copy is desired).
- \$20.00 fee is required if creditors are being added, deleted or if status of claim is being changed.
- Certificate of service should reflect service on the trustee, Bankruptcy Administrator (Ch. 7 & Ch. 11) and affected creditor(s). It is the responsibility of the debtor's attorney to serve a copy of the 341 notice on any additional creditors. The certificate of service attached to the amendment should reflect that this has been done. Service on creditors should be to the attention of the managing agent.
- Signature of the debtor(s) under penalty of perjury.

**** It is preferred that amendments not be filed on a petition schedule form as it is difficult to determine which creditor(s) are being added. If the amendment is filed on a petition schedule form, please note that the signatures are still required. This is frequently omitted when the schedule form is used as an amendment.**

Continued 341 Meetings

A motion to continue the 341 meeting of creditors must be filed as soon as the

debtor's unavailability is known. If a motion has not been received within 5 days after the scheduled date of the 341 meeting, a show cause hearing may be scheduled.

Requirements:

- Service on the trustee in all applicable chapters and the BA in Chapter 11's.
- Order to continue is submitted with the motion in all chapter cases (original + 1 copy). The order to continue should continue the meeting to a date to be later set by the court. The trustee sets the new 341 meeting date in Chapter 13 and Chapter 12 cases. The Bankruptcy Noticing Center sends out a notice in Chapter 7 and Chapter 11 cases. **Do not** leave a blank for a new date to be inserted.
- Motion must state basis for debtor(s) non-appearance.
- A doctor's statement must accompany the motion if non-appearance is medically related.

Notice of Continued 341

Chapter 13 - upon receipt of the order of continuance, the trustee prepares a notice of continued 341 meeting. The notice is sent to the debtor's attorney for service on all creditors. The original notice and certificate of service is submitted to the court for filing.

Chapter 7 - a notice of continued 341 meeting is prepared by the clerk's office and served on all creditors by the Bankruptcy Noticing Center (BNC).

Interrogatories

When a debtor is unavailable to appear in person at the 341 meeting of creditors, he may request to be examined by answering written interrogatories. A motion for interrogatories is filed setting out the reason the debtor cannot appear at the 341 meeting of creditors in person.

Requirements:

- original and one copy of the motion for interrogatories (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- signature on the motion and the certificate of service
- certificate of service reflecting service on the trustee and Bankruptcy Administrator (Ch. 7 only)
- proposed order (only if answers to interrogatories are submitted with the motion)

Please note the following:

- motion must set out the reason for the request (ex. - out of country on military duty)
- answers to interrogatories should not be attached to the motion as the answers are not deemed filed until an order allowing them has been entered
- in a joint case, the motion should state which debtor the motion is requesting interrogatories for
- if debtor(s) have moved to another location, a motion for change of venue may be required rather than a motion for interrogatories

Abandonments

Abandonment of estate assets is governed by Bankruptcy Rule 6007. Whenever property is burdensome to the estate or is of inconsequential value to the estate, either the trustee or a party in interest may wish to have the property abandoned. The trustee may abandon property by giving notice to all creditors or a party in interest may file a motion requiring the trustee to abandon property. A motion to compel the trustee or debtor in possession to abandon property of the estate must be accompanied by a filing fee of \$75.00.

The notice of abandonment or motion to abandon should contain an adequate description of the property to be abandoned.

Filing Requirements:

Notice of proposed abandonment by trustee:

- original plus one copy of notice (two if trustee wants a copy returned)
- 15 days response time is included in the notice
- signature of trustee on notice and the certificate of service
- certificate of service reflects service on all creditors (copy of mailing matrix is attached to certificate of service)
- proper content - notice sets out property to be abandoned

Motion directing trustee to abandon property by a party in interest:

- original plus one copy of motion (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- \$75.00 filing fee
- notice of motion with 15 days response time
- signature of movant on the motion, notice of motion and certificate of service
- certificate of service reflects service on all creditors (copy of mailing matrix is attached to the certificate of service)
- proper content - motion sets out property to be abandoned

- proposed order (original plus one copy)

**** The \$75.00 filing fee is not required in Chapter 13 cases when the debtor files the motion for abandonment.**

**** A creditor may contact the trustee and ask if he will sign a notice of abandonment if the creditor will agree to prepare the notice and serve on all creditors.**

Conversions

Conversions are governed by 11 U.S.C. Section 706, Section 1112, Section 1208 and Section 1307. A case cannot be converted to a case under another chapter unless the debtor is eligible to be a debtor under that chapter.

Chapter 7 Conversion Requirements

****NOTE: The court may not convert a Chapter 7 case to a case under Chapter 13 unless the debtor requests the conversion.**

Chapter 7 to a Chapter 13 (By Debtor)

- original and one copy of the motion to convert (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- signature of movant on the motion and the certificate of service
- certificate of service should indicate service on the chapter 7 trustee and Bankruptcy Administrator
- proposed order

Chapter 7 to Chapter 11 (By Debtor)

- \$400.00 conversion fee required
- original and one copy of the motion to convert (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- signature of movant on the motion and the certificate of service
- certificate of service should indicate service on the chapter 7 trustee and Bankruptcy Administrator
- proposed order

Chapter 7 to Chapter 11 (By Party in Interest)

- There is not a fee to convert a case to Chapter 11 by a party in interest

- original and one copy of the motion to convert (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- notice of motion with 20 days response time
- signature of movant on the motion, notice of motion and the certificate of service
- certificate of service should indicate service on all creditors, the debtor, debtor's attorney, the chapter 7 trustee and the Bankruptcy Administrator
- proposed order

Chapter 7 to Chapter 12

**** The court may not convert a chapter 7 case to a case under chapter 12 unless the debtor requests the conversion.**

- original and one copy of the motion to convert (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- signature of movant on the motion and certificate of service
- certificate of service should indicate service on the chapter 7 trustee and the Bankruptcy Administrator
- proposed order

Chapter 11 Conversion Requirements

Chapter 11 to Chapter 7 (By Debtor)

**** The court may not convert a chapter 11 case to a case under chapter 7 if the debtor is a farmer or a corporation that is not a moneyed, business or commercial corporation, unless the debtor requests the conversion.**

- \$15.00 conversion fee
- original and one copy of the motion to convert (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- signature of movant on the motion and the certificate of service
- certificate of service should reflect service on the Bankruptcy Administrator
- proposed order

Chapter 11 to Chapter 7 (By Party in Interest)

- \$15.00 conversion fee
- original and one copy of the motion to convert (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- notice of motion with 20 days response time
- signature of movant on the motion, notice of motion and certificate of service
- certificate of service should indicate service on all creditors, the debtor, the debtor's attorney and the Bankruptcy Administrator
- proposed order

Chapter 11 to Chapter 13 (By Debtor Only)

**** The court may convert a Chapter 11 case to Chapter 13 only if the debtor requests the conversion.**

- original and one copy of the motion to convert (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- signature of movant on motion and certificate of service
- notice of motion with 20 days response time
- certificate of service reflecting service on all creditors and the Bankruptcy Administrator
- proposed order

Chapter 11 to Chapter 12 (By Debtor Only)

**** The court may convert a Chapter 11 case to Chapter 12 only if the debtor requests the conversion.**

- original and one copy of the motion to convert (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- signature of movant on motion and certificate of service
- certificate of service reflecting service on the Bankruptcy Administrator
- proposed order

Chapter 12 Conversion Requirements

**** Conversion of a Chapter 12 case by the debtor is effected without court order by the filing of a notice of conversion pursuant to Bankruptcy Rule 1017(d).**

Chapter 12 to Chapter 7 (By Debtor)

- \$15.00 conversion fee
- original of notice of conversion (one copy if movant wants a copy returned along with a stamped, self-addressed envelope)
- signature of movant on notice and certificate of service
- certificate of service with service on chapter 12 trustee
- no order necessary (unless a motion to convert is filed rather than the notice of conversion)

Chapter 12 to Chapter 7 (By Party in Interest)

- \$15.00 conversion fee
- original and one copy of motion to convert (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- notice of motion with 20 days response time
- signature of movant on the motion, notice of motion and certificate of service
- certificate of service reflecting service on the chapter 12 trustee, debtor, debtor's attorney and all creditors
- proposed order

Chapter 13 Conversion Requirements

**** Conversion of a Chapter 13 by the debtor is effected without court order by the filing of a notice of conversion pursuant to Bankruptcy Rule 1307(a).**

Chapter 13 to Chapter 7 (By Debtor)

- \$15.00 conversion fee
- original notice of conversion (one copy if movant wants a copy returned along with a stamped, self-addressed envelope)
- signature of movant on notice and certificate of service
- certificate of service reflecting service on the chapter 13 trustee

Chapter 13 to Chapter 7 (By Party in Interest)

- \$15.00 conversion fee
- original and one copy of motion to convert (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- notice of motion with 15 days response time
- signature of movant on motion, notice of motion and certificate of service
- certificate of service reflecting service on the chapter 13 trustee, debtor & debtor(s) attorney
- proposed order

Chapter 13 to Chapter 11 (By Debtor)

- \$400.00 conversion fee
- original and one copy of motion to convert (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- signature of movant on motion and certificate of service
- notice of motion with 15 days response time
- certificate of service reflecting service on chapter 13 trustee, all creditors & the BA
- proposed order

Chapter 13 to Chapter 11 (By Party in Interest)

- There is no fee required to convert to chapter 11 by a party in interest

- original and one copy of motion to convert (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- notice of motion with 15 days response time
- signature of movant on motion, notice of motion and certificate of service
- certificate of service reflecting service on all creditors, chapter 13 trustee, debtor, debtor(s) attorney & BA
- proposed order

Chapter 13 to Chapter 12 (By Debtor)

**** The court may convert a Chapter 13 to a Chapter 12 only if the debtor requests the conversion.**

- original and one copy of motion to convert (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- signature of movant on motion and certificate of service
- certification of service reflecting service on the chapter 13 trustee
- proposed order

Dismissals

Dismissal of a case is governed by 11 U.S.C. Section 707, Section 1112, Section

1307 and Section 1208. Dismissal of a case results in the termination of the automatic stay.

Chapter 7

- Debtors in chapter 7 cases do not have the right to have the case dismissed upon request. A chapter 7 case may only be dismissed after notice and determination by the judge if a hearing on the motion is necessary.

Chapter 11

- The court may dismiss a chapter 11 upon the request of the debtor or a party in interest after notice and determination by the judge if a hearing on the motion is necessary.

Chapter 13

- A chapter 13 may be dismissed upon the request of a party in interest or trustee after proper notice. The debtor may at any time request to have his case dismissed if the case has not been previously converted to a chapter 7, chapter 11 or chapter 12.

Chapter 12

- A chapter 12 may be dismissed upon the request of the debtor, a party in interest or trustee after proper notice.

Requirements for Dismissal (By Debtor)

- original plus one copy of the motion to dismiss (two if debtor's attorney wants a copy returned along with a stamped, self-addressed envelope)
- notice of motion with 20 days response time (not required for Ch. 13)
- signature of attorney for debtor on motion, notice of motion and certificate of service
- certificate of service reflecting service on the trustee, Bankruptcy Administrator and all creditors (Ch. 13 requires service on trustee only)
- proposed order

Requirements for Dismissal (By Party in Interest)

- original plus one copy of motion to dismiss (two if movant wants a copy returned along with a stamped, self-addressed envelope)

- notice of motion with 20 days response time
- signature of movant on motion, notice of motion and certificate of service
- certificate of service reflecting service on all creditors, trustee, debtor's attorney and the BA
- Judge will determine if a hearing on the motion is necessary
- proposed order

NOTE: A case under any chapter may be dismissed for failure to pay any installment of the filing fee after notice and hearing pursuant to Bankruptcy Rule 1017(b)(1). If a case is dismissed with filing fees owing, the order will state that no motions for reconsideration will be entertained until the filing fee is paid in full. If a new case is filed, the debtor will not be allowed to pay the filing fees in installments. The court will continue to try to collect the filing fees from the prior filing.

Fee Applications

Compensation for fees and reimbursement of expenses of professionals must be sought by application. The application must set forth a detailed statement of (1)

the services rendered, time expended and expenses incurred, and (2) the amounts requested. The application must also state:

- **what payments have been made or promised to the applicant for services rendered**
- **whether any compensation previously received has been shared and whether an agreement or understanding exists between the applicant and any other entity for the sharing of compensation received or to be received for services rendered in connection with the case**
- **the details of any sharing of compensation or agreement or understanding, except details of any agreement for sharing of compensation between members or associates of a firm**

The application for fees and expenses is usually filed by the professional, but may be filed by a creditor or some other entity who employed the professional.

Applications for fees and expenses are usually filed at the conclusion of a case, but the filing of interim application can be authorized every 120 days or more often if the court permits. A notice of 20 days must be given by mail to the debtor, trustee, Bankruptcy Administrator and all creditors on all applications for compensation or reimbursement of expenses totaling in excess of \$500.00. Fees are governed by Bankruptcy Rule 2016.

Requirements:

- Original and one copy of application (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- Certificate of service reflecting service on all creditors, trustee and Bankruptcy Administrator
- Time sheets and lists of expenses should be attached to the application
- Signature of movant on application, notice of motion and certificate of service
- Fee applications should not be submitted more than once every 120 days unless approved by the court
- If the application is for interim fees, this should be set out in the title and body of the application and proposed order
- Proposed order

506(c) Fees: Service is not required on all creditors. Service should be on debtor, attorney, Bankruptcy Administrator and affected secured creditors.

**** ALL APPLICANTS MUST BE EMPLOYED BEFORE COMPENSATION CAN BE AWARDED.**

Incurring Debt

Local Bankruptcy Rule 4002-1(d)(4) Obtaining Credit: The debtor shall not purchase additional property or incur additional indebtedness for an amount in

excess of Five Thousand Dollars (\$5000) without prior approval of the trustee and an order of the court.

Requirements:

- original plus one copy of motion (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- motion practice is not required
- certificate of service reflecting service on the chapter 13 trustee and any affected creditor(s)
- proposed order

The motion should set out what is being purchased or financed, who financing will be with, amount of debt to be incurred and whether the debt is to be paid inside or outside the chapter 13 plan.

The motion to incur debt is held for 10 days for a recommendation by the chapter 13 trustee before the order is submitted to the judge for consideration.

Lien Avoidance

A motion to avoid lien is governed by 11 U.S.C. 522(f) and Bankruptcy Rule 9014. A lien avoidance is the setting aside of a lien by the debtor on certain property

(household goods).

The following information should be contained in a motion to avoid liens:

- statement that the matter is a core proceeding and that the court has jurisdiction
- motion is being filed pursuant to 11 U.S.C. Section 522(f)(2) to avoid liens
- the name and address of the creditor, the amount of the debt, the amount of the lien sought to be avoided, a description of the property in which the lien exists, the date of perfection and a recital that the lien is a judicial lien or a nonpossessory, nonpurchase money security interest in household goods, wearing apparel, etc., implements, professional books or tools of the trade, or professionally prescribed health aids
- that the lien of the creditor impairs the debtor's right to claim his exemptions
- an adequate description of the specific property on which the lien is to be avoided, the fair market value of the property and the exact dollar amount of the exemptions claimed in the property

Filing Requirements:

- original plus one copy of motion (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- notice of motion with 15 days response time
- signature of movant on the motion, notice of motion and certificate of service
- certificate of service should reflect service on the trustee, Bankruptcy Administrator (Ch. 7 cases), and affected creditors. Creditors should be served to the attention of the managing agent.
- proper content in both the motion and order - recite specific property, fair market value and amount claimed as exempt
- proposed order

Relief From Automatic Stay

A motion for relief from the automatic stay is governed by 11 U.S.C. Section 362 and Bankruptcy Rule 9014. Upon the filing of a petition with the court, a "stay" is

put into effect that restrains creditors from any collection activity (with some exceptions), litigation against the debtor or harassment of the debtor. Creditors file a motion for relief from the automatic stay in order to “lift” the stay in order to reclaim their collateral or be allowed to follow other legal action such as lien enforcement or perfection against the debtor to satisfy their claims.

Co-Debtor stays are governed by 11 U.S.C. Section 1301. A co-debtor stay is the prohibition on collection activity against the guarantors, co-makers, endorsers, and the like from consumer debts of the debtor in Chapter 13 cases (individuals only).

Requirements:

- \$75.00 filing fee (not required in co-debtor stays or when lifting of stay is to pursue collection of child support. Motion must be accompanied by form B-281 - Appearance of Child Support Creditor or Representative)
- original plus one copy of the motion (two if the movant wants a copy returned with a stamped, self-addressed envelope)
- notice of motion with 15 days response time
- signature of movant on motion, notice of motion and certificate of service
- certificate of service reflecting service on the debtor, debtor(s) attorney, trustee, Bankruptcy Administrator (Ch. 7 & Ch. 11 only) and the co-debtor when applicable
- any exhibits referred to in the motion should be attached to the motion
- proposed order

**** Submit the proposed order lifting stay at the time the motion is filed. This way there will be no delay in entry of the order once the response time expires. If a response is anticipated and you prefer not to submit an order, please set this out in your cover letter so a deficiency letter will not be sent.**

4001(d) Notice & Consent Orders

Rule 4001(d) applies only in Chapter 11 cases to agreements relating to relief from the automatic stay; providing adequate protection; prohibiting or conditioning the use, sale or lease of property; use of cash collateral; and obtaining credit. Such

agreements should be served on any committee appointed or its authorized agent; or if there is no committee, on the 20 largest unsecured creditors and any other entities as the court directs. The notice should be accompanied by a copy of the agreement giving each party 15 days to file any objections. If no objections are filed, the court may enter an order without conducting a hearing. If an objection is filed and if the court determines a hearing is necessary, then a hearing is scheduled and notice is given to the parties in interest.

Requirements:

- 4001(d) notice is required in Chapter 11 cases only
- original plus one copy of the notice (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- certificate of service reflecting service on the unsecured creditors committee or their attorney if there is one, the 20 largest unsecured creditors if there is no creditors committee, the debtor, debtor(s) attorney and the Bankruptcy Administrator

**** A motion and order to allow the 4001(d) notice is not necessary.**

**** 4001(d) notice is not required if the unsecured creditors committee, attorney for the committee or 20 largest unsecured creditors were served with the motion for relief from stay.**

Consent Orders

Consent orders require the signatures of all involved parties. They are circulated for signatures and submitted to the court as quickly as possible if they are the result of a hearing.

Note: All Chapter 13 and Chapter 12 consent orders must be signed by the trustee.

Reaffirmation Agreement

A reaffirmation agreement is governed by 11 U.S.C. Section 524(c). It is a debtor's agreement with a creditor to reaffirm the debtor's obligation to repay a debt that would otherwise be dischargeable. The agreement should be made prior

to the granting of the discharge.

The following information should be included in a reaffirmation agreement:

- name and address of creditor reaffirming debt
- statement advising the debtor, clearly and conspicuously, that the agreement may be rescinded at any time prior to discharge or within 60 days after filing of the agreement with the court, whichever is later, by giving notice of rescission to the creditor holding the claim
- affidavit or declaration of debtor's attorney if the debtor was represented by an attorney in negotiating the agreement
- the affidavit or declaration should state that the debtor was fully informed and voluntarily entered into the agreement; and the agreement does not impose an undue hardship on the debtor or the debtor's dependants

Requirements:

- original agreement (one copy if movant wants a copy returned along with a stamped, self-addressed envelope)
- signature of both the debtor and creditor
- affidavit of attorney - a hearing will be scheduled if no affidavit is received

Note: A motion and proposed order to allow a reaffirmation agreement are not required. If a reaffirmation agreement is filed, once the discharge bar date expires, a notice is sent to the debtor, debtor's attorney, trustee and affected creditor(s) regarding the effect of the discharge and the reaffirmation agreement. This notice gives all parties involved ten (10) days to object to the reaffirmation. If no objections are filed, the discharge may be entered.

Sales

Sales are governed by 11 U.S.C. Section 363. If the debtor has assets that cannot be exempted, the trustee will take those assets and sell them. The monies received are used to pay creditors.

Requirements:

- original notice plus one copy (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- 15 days response time (sale must be at least 20 days from date of service of sale notice)
- certificate of service reflecting service on all creditors, debtor, debtor's attorney and the Bankruptcy Administrator
- if property is being sold free and clear of liens, a hearing date must be included in the notice of sale. The hearing date can be obtained by calling the calendar deputy at the appropriate clerk's office. The notice should be served promptly after getting the hearing date.
- notice of public sale should contain a description of property being sold, date, time and place of sale
- notice of private sale should contain a description of property being sold, buyer, buyers relationship to debtor and the sales price

After the Sale:

The following must be filed with the court:

- Report of Sale - when personal property only is sold
- Application to confirm sale - when real property is sold
- proposed order to confirm sale when real property is sold

Note: An application to allow a sale is only needed when real property is being sold at private sale.

If the dollar amount of the sale is \$2,500.00 or less, a general notice of intent to sell is required pursuant to Bankruptcy Rule 6004(d).

Severing a Case

The terms sever and deconsolidate are used when a joint case is filed and subsequently divided into two separate cases. A motion to sever or a notice of

conversion for one of the debtors initiates the severance of a joint case.

Requirements:

- filing fee equal to one-half current filing fee for the chapter under which the joint case was commenced (if severance result in two ongoing cases)
- original plus one copy of motion (two if movant wants a copy returned along with a stamped, self-addressed envelope)
- motion practice is not required
- proposed order

When a joint case is severed, a new case number is assigned to one of the debtors. The new case number goes to the converting party or the female debtor if both parties are remaining under the same chapter.

The new case number is the same as the original case number except that the 0 in the original number is replaced with a 9.

Example:

original case number - 99-00204-8-ATS

new number for severed party - 99-90204-8-ATS

Collection of Fees:

- a fee equal to one-half of the current filing fee for the chapter under which the joint case was commenced is charged whenever a joint case is divided into two cases at the request of the debtor
- if the severance occurs at the request of a party other than one of the joint debtors, no fee is collected
- the fee is collected when the severance of the joint case results in two separate ongoing cases
- if one of the joint debtors is dismissed, no fee is collected

Modification of Plan in Chapter 13 Case

The debtor may file a motion to modify the plan or the trustee may require the

debtor to file a modification of plan to extend the length of the plan or to increase or decrease the payments.

The average length of a plan is 36 months. A plan cannot exceed 60 months.

The motion should specifically state how the plan is being modified. If the trustee files a notice of requirement to modify, the motion should reflect the specific details as set out in the trustee's notice.

Requirements:

- Before confirmation - modification only required. No motion or order is necessary.
- After confirmation - motion and order is required
- original plus one copy of motion (two if movant wants a copy returned along with stamped, self-addressed envelope)
- notice of motion with 20 days response time
- certificate of service reflecting service on trustee and all creditors
- proposed order

Miscellaneous Information

- *Check case numbers for accuracy, including the district and judge's initials,*

i.e., 99-00075-8-ATS. The correct case number on a document makes for expeditious handling of the paperwork. Please note the distinction between Wilson and Raleigh case numbers.

Wilson: 99-00758-8-JRL Raleigh: 99-00219-5-ATS.

- *All pleadings should include the geographical division in the caption of the case in accordance with Local Rule 9004.1(a). The six divisions are Elizabeth City, New Bern, Wilson, Fayetteville, Raleigh and Wilmington and should be reflected in the heading as follows:*

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
NEW BERN DIVISION**

- *Original petitions and pleadings should not be stapled as documents are imaged and staples will jam the equipment*
- *The address of the creditor involved in a reaffirmation agreement is necessary so that the notice of effect of reaffirmation may be served on the creditor signing the reaffirmation agreement.*
- *If an order has not been entered consolidating two cases, the pleadings should reflect only one case. Do not put two or more cases on one document. An original document with an original signature is required for each case file.*
- *If an attorney takes on a debtor in an already existing case, a notice of appearance needs to be filed. If the debtor was represented by another attorney at the time of filing, that attorney will need to file a motion and proposed order to withdraw as counsel.*

- *The response due date shown on the computer is the last day to file a response. It does not include the 3 day mailing period. Orders are sent to the judge on the 19th day if there is a 15 day response time. If the response time expires during a weekend, the matter is sent to the judge on the following Tuesday.*

- *When using the notice of motion form in which you fill in the date for the last day to file a response, the 3 days mailing does not apply. The matter is sent to the judge the following day after the date set out in the notice of motion. Make sure to allow the proper amount of days notice. Please note that this is the notice of motion form which should be used. A copy of this form is included in the seminar materials.*

- *Pleadings submitted to the clerk's office should be assembled as follows:*
 - Motion*
 - Exhibits (if applicable)*
 - Affidavits (if applicable)*
 - Notice of Motion*
 - Certificate of Service (list complete name and address of party served. If service is on all creditors, attach a copy of the mailing matrix).*

- *Proposed orders should be submitted with the motion. If you anticipate a response or consent order and prefer not to submit an order, please advise the clerk's office so that a deficiency letter will not be sent.*

- *Please do not date orders. The clerk's office preference is DATED: _____ rather than "on the _____ day of April, 1999". Many times this information must be changed due to the order being entered in a different month than the one shown on the order.*

- *The trustee must sign all proposed consent orders. The consent order will not be considered until the trustee has signed it.*

- *The signature line of proposed orders should read as follows:*

UNITED STATES BANKRUPTCY JUDGE

- The judge assigned to the case may not always be the judge to hear a matter. If the judge's name is included on the signature line, it may have to be changed.*
- *Orders should be submitted to the clerk's office rather than directly to the judge.*
 - *All documents are required to be submitted on 8½ x 11 inch paper. This includes all attachments and exhibits. If attachments and exhibits are on legal sized paper, recopy them on 8½ x 11 paper before submitting to the court.*
 - *Make sure that envelopes submitted for returning copies of documents are large enough to hold the copies and that the correct amount of postage is on the envelope.*
 - *The \$20.00 amendment fee is required any time a creditor is added, deleted, or the status of the creditor is changed.*
 - *The trustee should be served with all debtor and creditor address changes.*
 - *Local Rule 3001-1(a)(2) requires that Chapter 13 and Chapter 12 claims be filed with the office of the standing trustee. The clerk's office should not be copied with the claims.*
 - *Please submit orders resulting from hearings in a timely manner. Failure to submit the order may result in the matter being placed back on the calendar.*

- *Checks submitted to the clerk's office should reflect the case name and number and what the check is for. Checks should be on top of the document submitted so that it can be easily seen. Please make sure the check has been signed. Do not staple the check to the document.*
- *Any document submitted for filing which is not acceptable for filing will be lodged. The attorney is called and advised of the deficiency. The attorney has 5 days to correct the deficiency. If the filing fee is omitted and the deficiency is not corrected, the document will be returned. Other documents are sent to the judge for further instructions.*
- *Make sure documents are submitted to the correct office for filing. Cases with a -5 are filed in the Raleigh clerk's office. Cases with a -8 are filed in the Wilson clerk's office.*
- *Documents can now be printed in your office by using the Internet. If you need a copy of something out of a file that has not been imaged, please give the clerk's office sufficient time to make the copies. Due to the volume of work in the clerk's offices, it is not realistic to request copies over the phone and expect to pick them up on the same day.*

Guide to Service and Notice Requirements
United States Bankruptcy Court
for the Eastern District of North Carolina

This chart is a guide to common service and notice requirements in this court. It should be used in conjunction with the following explanatory notes.

1. Bankruptcy Rule 9014 requires all contested matters to be served in the manner provided by Bankruptcy Rule 7004. This chart has no effect on the methods of service prescribed by that Rule, including the special rules for service upon the United States, federal officers and agencies, state or municipal governments, and insured depository institutions.

2. The Bankruptcy Administrator should be served in chapter 7 and 11 cases only. The Bankruptcy Administrator need not be served in chapter 12 and 13 cases.

3. In chapter 11 cases, a trustee appointed under 11 U.S.C. § 1104 should be served in lieu of the debtor-in-possession.

4. Filing fees referenced in the chart are authorized by 28 U.S.C. § 1930, and by the appendices thereto prescribed by the Judicial Conference of the United States.

5. This chart does not address filings by trustees.

Codes for parties to serve:

D = Debtor

DA = Debtor's Attorney

AP = Affected Parties

T = Trustee

BA = Bankruptcy Administrator (chapters 7 & 11)

All = All creditors on matrix

20 LUC = 20 Largest Unsecured Creditors

UCC = Unsecured Creditor's Committee or its counsel

GUIDE TO SERVICE AND NOTICE REQUIREMENTS

Pleading	# of Notice Days	Chapter	Parties to Serve	Comments
506(c) Fees & Expenses, Application for (11 U.S.C. § 506(c))	15	All	BA, AP	
Abandon, Motion to	15	All	All, BA, T, DA	\$60.00 fee required for creditor's motion
Accept/Reject Executory Contract, Motion to (1) Debtor's (2) Creditor's	15	11, 12, 13	(1) BA, AP, T, 20 LUC or UCC (2) D, DA, BA, T, 20 LUC or UCC	
Accept/Reject Lease, Motion to (1) Debtor's (2) Creditor's	15	11, 12, 13	(1) BA, AP, T, 20 LUC or UCC (2) D, DA, BA, T, 20 LUC or UCC	
Amendment to Schedules	None	(1) 7, 11, 12, (2) 13	(1) BA, AP, T (2) T, AP	\$20.00 fee may be required, See 28 U.S.C. § 1930
Approval of Consent Order under BR 4001(d), Motion for	15	11	D, DA, BA, 20 LUC or UCC	
Avoid a Lien under 11 U.S.C. § 522(f), Motion to	15	All	AP, BA, T	
Cash Collateral (1) Debtor's Motion to Use (2) Creditor's Motion to Prohibit	15	11, 12	(1) BA, T, AP, 20 LUC or UCC (2) D, DA, T, BA, 20 LUC or UCC	For emergency situations see BR 4001(b)
Compensation and Expenses, Application for	20	All	All, T, BA, D, DA	If total compensation is less than \$500.00, see BR 2002(a)(6)

Pleading	# of Notice Days	Chapter	Parties to Serve	Comments
Compromise, Motion to	20	All	All, T, BA, D, DA	
Contempt/Sanctions, Motion for	15	All	D, DA, T, BA, AP	See BR 9020 for pleading requirements
Continue 341 Meeting of Creditors, Motion to	None	(1) 11 (2) 7, 12, 13	(1) BA (2) T, BA	(1) DA WILL be directed to serve all creditors with the Order Continuing the 341 meeting (2) DA MAY be directed to serve all creditors with the Notice or Order Continuing the 341 meeting
Continue Hearing/Conference, Motion to	None	All	D, DA, T, BA, AP	Motion to be filed as soon as the need for a continuance arises
Convert from Chapter 7 to 12, Motion to (1) Debtor's	None	7	(1) T, BA	If the case was previously converted, see 11 U.S.C. § 706
Convert from Chapter 7 to 11, Motion to (1) Debtor's (2) Creditor's	(1) None (2) 20	7	(1) T, BA (2) All, T, D, DA, BA	(1) \$400.00 Filing fee required from debtor (2) No fee required for creditor's motion
Convert from Chapter 11 to 7, Motion to (1) Debtor's In Possession (2) Creditor's or Debtor's Not In Possession	(1) None (2) 20	11	(1) BA, (2) All, D, DA, BA	\$15.00 fee required for all motions Serve trustee if one has been appointed For exceptions, see 11 U.S.C. § 1112(a)
Convert from Chapter 13 to 11, Motion to (1) Debtor's (2) Creditor's	15	13	(1) All, BA, T (2) All, BA, T, D, DA	(1) \$400.00 Fee Required (2) No Fee Required (2) If the debtor is a farmer, see 11 U.S.C. § 1307(e)
Convert from Chapter 12 to 7, Notice of (1) Debtor's	None	12	T	Motion to Convert by party in interest, see 11 U.S.C. §1208(d) \$15.00 Fee is Required
Convert from Chapter 7 to 13, Motion to (1) Debtor's	None	7	T, BA	If the case previously converted, see 11 U.S.C. § 706

Pleading	# of Notice Days	Chapter	Parties to Serve	Comments
Convert from Chapter 11 to 13, Motion to (1) Debtor's	20	11	All, DA, D, BA	
Convert from Chapter 13 to 7 (1) Debtor's (Notice) (2) Creditor's (Motion)	(1) None (2) 15	13	(1) T (2) D, DA, T	\$15.00 Fee Required
Dismiss, Motion to (1) Debtor's (2) Creditor's (3) Debtor's (4) Creditor's	(1) None (2) 15 (3) 20 (4) 20	(1) 13 (2) 13 (3) 7, 11, 12 (4) 7, 11, 12	(1) T (2) D, DA, T (3) All, T, BA (4) All, D, DA, T, BA	
Employ Professional Person, Application to	None	7, 11, 12	BA, T	
Employ Officer(s) and Approval of Compensation, Application to	None	11	BA	See LBR 4002-1(b)(2)(A)
Employ Debtor's Attorney Under a Flat Fee Arrangement, Application to	20	11	All, BA	<u>In re Pineloch</u> , 192 BR 675 (Bankr. E.D.N.C. 1996)
Examination Under 2004, Application for	None	All	D, DA, AP, T, BA	Motion should be filed at least 10 days prior to the examination date
Examination by Interrogatories in lieu of attendance at the 341 meeting, Motion for	None	All	T, BA	If request is due to medical reasons, the motion should be accompanied by a doctor's statement
Extend Filing Deadline for 11 U.S.C. § 523 and/or 11 U.S.C. § 727 Complaint, Motion to	None	7, 11	D, DA, T, BA	
Hardship Discharge, Motion for	None	12, 13	T	DA will be directed to serve the notice on all creditors
Incur Debt, Motion to; or Obtain Credit, Motion to; or Post-Petition Financing, Motion for	(1) None (2) 15	(1) 12, 13 (2) 11	(1) T (2) 20 LUC or UCC, BA, AP	See LBR 4002-1(d)(4) For emergency situations see BR 4001(c)

Pleading	# of Notice Days	Chapter	Parties to Serve	Comments
Modify Plan, Motion to (1) Plan Proponent's (2) Debtor's (3) Creditor's	20	(1) 11 (2) 12, 13 (3) 12, 13	(1) All, T, BA, D, DA (2) All, T (3) All, T, D, DA	
Objection to Claim	30	All	D, DA, AP, T, BA	
Objection to Claim of Exemptions	15	All	D, DA, T, BA	This applies to individual debtors only
Objection to Disclosure Statement	None	11	D, DA, BA, T	
Objection to Plan	None	11, 12, 13	D, DA, BA, T	
Re-Open Case, Motion to	None	All	D, DA, T, BA	Court approval may require payment of filing fee and retrieval fee
Reconsider or Vacate Order, Motion to	15	All	D, DA, T, BA, AP	See BR 9023 and BR 9024
Relief from Automatic Stay, Motion for	15	(1) 7, 12, 13 (2) 11	(1) D, DA, T, BA (2) D, DA, BA, T, 20 LUC or UCC	\$60 fee required
Relief from Co-debtor Stay, Motion for	15	13	D, DA, T, BA, Co-debtor	No fee is required
Sales (1) Private and Public, Notice of (2) Real Property, Application for	20	7, 11, 12, 13	All, D, DA, BA,	15 day response time is required in all chapters See BR 6004 regarding a hearing date
Sell Free and Clear of Liens, Motion to	15	7, 11, 12	D, DA, BA, AP	
Turnover Order, Motion for	15	All	D, DA, T, BA, AP	
Valuation of Collateral, Motion for	15	All	D, DA, T, BA, AP	
Withdraw as Counsel, Motion to	15	All	D, T, BA	
Withdraw Motion/Response	None	All	D, DA, T, AP, BA	

Adversary Proceedings

Adversary Proceedings, which are governed by Part VII of the Federal Rules of Bankruptcy Procedure, are proceedings seeking one of ten specified types of relief:

1. to recover money or property, except a proceeding to compel the debtor to deliver property to the trustee, or a proceeding under § 554(b) [to obtain an order that the trustee abandon property that is burdensome to the estate or is of inconsequential value or benefit to the estate] or § 725 of the Code [to dispose of property of the estate in which an entity other than the estate has an interest and that has not been disposed of under another section of title 11], Rule 2017 [to examine debtor's transactions with debtor's attorneys], or Rule 6002 [to require an accounting by prior custodian of property of the estate],
2. to determine the validity, priority, or extent of a lien or other interest in property, other than a proceeding under Rule 4003(d) [a proceeding by the debtor to avoid a lien or other transfer of property exempt under § 522(f) of the Code],
3. to obtain approval pursuant to § 363(h) for the sale of both the interest of the estate and of a co-owner in property,
4. to object to or revoke a discharge,
5. to revoke an order of confirmation of a chapter 11, chapter 12 or chapter 13 plan,
6. to determine the dischargeability of a debt,
7. to obtain an injunction or other equitable relief,
8. to subordinate any allowed claim or interest, except when subordination is provided in a chapter 9, 11, 12 or 13 plan,
9. to obtain a declaratory judgment relating to any of the foregoing, or

10. to determine a claim or cause of action removed pursuant to 28 U.S.C. § 1452.

Fed. R. Bank. P. 7001.

CORE VS. NON-CORE PROCEEDINGS

Section 157 of title 28 distinguishes between "core" proceedings and "non-core" proceedings. Core proceedings are those proceedings "arising under title 11 or arising in a case under title 11." 28 U.S.C. § 157(b)(1). They are basically those proceedings which are inherent in or fundamental to the administration of a bankruptcy estate, and they constitute the vast bulk of bankruptcy matters. Section 157(b)(2) sets out a nonexclusive listing of core proceedings:

- A. matters concerning administration of the estate;
- B. allowance or disallowance of claims against the estate or exemptions from property of the estate and estimation of claims or interests for the purposes of confirming a plan (but not the liquidation or estimation of contingent or unliquidated personal injury tort or wrongful death claims against the estate for the purpose of distribution);
- C. counterclaims by the estate against persons filing claims against the estate;
- D. orders in respect to obtaining credit;
- E. orders to turn over property of the estate;
- F. proceedings to determine, avoid, or recover preferences;
- G. motions to terminate, annul, or modify the automatic stay;
- H. proceedings to determine, avoid, or recover fraudulent conveyances;
- I. determination as to the dischargeability of particular debts;
- J. objections to discharges;

- K. determinations of the validity, extent, or priority of liens;
- L. confirmations of plans;
- M. orders approving the use or lease of property, including the use of cash collateral;
- N. order approving the sale of property other than property resulting from claims brought by the estate against persons who have not filed claims against the estate; and
- O. other proceedings affecting the liquidation of the assets of the estate or the adjustment of the debtor-creditor or the equity security holder relationship, except personal injury tort or wrongful death claims.

Bankruptcy judges may hear and make a final determination with respect to core proceedings. 28 U.S.C. § 157(b).

Non-core proceedings are either "related to a case under title 11" or are not so "related." 22 U.S.C. § 157(c). There is no corresponding list of non-core proceedings contained in the statute. Basically, they are common law proceedings which would ordinarily have been adjudicated in a state court absent bankruptcy.

Bankruptcy judges may hear non-core "related" proceedings, but they may only submit proposed findings of fact and conclusions of law to the district court for entry of a final order or judgment by the district court. 28 U.S.C. § 157(c)(1). Non-core proceedings that are "not related" may not be heard or determined by a bankruptcy court.

A bankruptcy judge may enter a final order or judgment in a non-core related proceeding if all the parties to the proceeding consent to entry of a final order or judgment by the bankruptcy judge and the district court has referred the proceeding to

the bankruptcy judges by the standing order referring title 11 matters or a specific order related to that proceeding. 28 U.S.C. § 157(c)(2).

Default

Pertinent Law and Rules

1. Bankruptcy Rule 7012(a) provides that the defendant to an adversary proceeding must serve an answer within 30 days of issuance of the summons by the court, unless the court prescribes a different time. If the United States is the defendant, then an answer must be served within 35 days of the issuance of the summons.
2. Bankruptcy Rule 7012(b) incorporates by reference Rule 12(b)(h) of the Federal Rules of Civil Procedure. This rule permits the defendant to file several types of motions, including a motion to dismiss the complaint, a motion for a more definite statement, and a motion to strike, in lieu of filing an answer.
3. If the defendant serves neither an answer nor one of the motions described in Bankruptcy Rule 7012(b) within the time fixed by Bankruptcy Rule 7012(a), the defendant is said to be in default. A defendant may also be in default if an answer or motion is served, but the defendant fails to appear at a court hearing.
4. Bankruptcy Rule 7055 incorporates by reference Rule 55 of the Federal Rules of Civil Procedure. This rule provides that when the defendant is in default, the plaintiff may seek to have the clerk enter the default on the court docket. This entry of default is accomplished by the execution of form B 260.
5. Once a default has been entered, the plaintiff may seek a default judgment.
6. Federal Rules of Civil Procedure 55, provides two methods for obtaining a judgment by default. If the complaint seeks a sum certain, the defendant is neither an infant nor an incompetent person, and the defendant has not served an answer or motion the clerk may enter a judgment for that amount upon receipt of an affidavit from the plaintiff setting forth the amount due. By sum certain, the rule means an amount that can be fixed by simple calculation or that can be set by documentation, such as an invoice. Merely because a party claims a specific amount, such as \$3 million for pain and suffering, does not make that amount a sum certain.
7. In all other instances, including a defendant who served an answer or motion and then fails to appear at a court hearing F.R.C.P. 55 requires that the default judgment be entered by the court. The most common means for seeking a default judgment from the court is for the default judgment to be submitted at the trial. If no trial has been scheduled, or if the plaintiff does not wish to wait until trial, the plaintiff may wish to move for a default judgment. Bankruptcy Rule 9013 provides that, "a request for an order, except when an application is authorized by these rules, shall be by written motion, unless made during a hearing. The motion shall state with particularity the

grounds therefor, and shall set forth the relief or order sought. Every written motion other than one which may be considered ex parte shall be served by the moving party on the trustee or debtor in possession and on [the plaintiff]." F.R.C.P 55(b) requires that a defendant who served an answer or motion and then fails to appear at a court hearing receive at least three days notice of a motion for a default judgment.

8. 50 U.S.C. Appendix § 520 affords to those in military service certain protections against entry of a default judgment. If the defendant is in the military service, this statute should be consulted.

Entry of Default

Instructions

Affidavit

The clerk is permitted to enter a default only upon being presented with an affidavit or affirmation setting forth the facts. The facts should normally include:

1. Date of issuance of the summons;
2. Statement of whether the court fixed a deadline for the filing of an answer or motion, or whether the 30 (or 35) day time limit applies;
3. Date of service of the complaint;
4. Date of filing of an affidavit of service;
5. Statement that no answer or motion has been received within the time limit fixed by the court or by Bankruptcy Rule 7012(a);
6. Statement that the defendant is not in the military service, as required by 50 U.S.C. Appendix § 520. If the defendant is, or may be, in the military service, the defendant is afforded certain protections which must be addressed prior to the entry of a default.

The affidavit or affirmation should be submitted along with form B 260 for filing with the court.

Caption

1. Identify the Judicial District in which the bankruptcy case was filed. Example: Eastern District of North Carolina.
2. "In re": Insert the name of the debtor as it appears in the bankruptcy petition. Then insert the name of the plaintiff(s) and defendant(s) as they appear on the original complaint.
3. "Bankruptcy Case No.": Insert the bankruptcy case number assigned by the court at the time of filing.

4. "Adversary Proceeding No.": Insert the number assigned by the court to the adversary case at the time of the filing of the complaint.

Box

The name of the defendant who is in default must be set forth in the space provided. This is particularly important in an adversary proceeding where there is more than one defendant, and the entry of default is not sought against all defendants.

Judgment by Default

Instructions

Affidavit

The clerk is permitted to enter a default judgment only upon being presented with an affidavit setting forth the amount owed, together with a statement that the defendant is not in the military service. The affidavit should be submitted along with the proposed judgment (Form B 261) for filing with the court.

Caption

1. Identify the Judicial District in which the bankruptcy case was filed.
Example: Eastern District of North Carolina.
2. "In re": Insert the name of the debtor as it appears in the bankruptcy petition, the debtor(s) address and taxpayer identification number. Then insert the names of the plaintiff(s) and defendant(s) as they appear on the original complaint.
3. "Bankruptcy Case No.": Insert the bankruptcy case number assigned by the court at the time of filing.
4. "Adversary Proceeding No.": Insert the number assigned by the court to the adversary case at the time of the filing of the complaint.

Relief Sought

The relief sought in the complaint should be restated on Form B 261 after the phrase "IT IS ORDERED THAT."

EXECUTION OF A FEDERAL JUDGMENT

Rule 69 of the Federal Rules of Civil Procedure made applicable to bankruptcy by Rule 7069 of the Federal Rules of Bankruptcy Procedure reads as follows:

Rule 69. Execution.

(a) In General. Process to enforce a judgment for the payment of money shall be a writ of execution, unless the court directs otherwise. The procedure on execution, in proceedings supplementary to, and in aid of a judgment, and in proceedings on, and in aid of execution shall be in accordance with the practice and procedure of the state in which the district court is held, existing at the time in which the district court is held, existing at the remedy is sought, except that any statute of the United States governs to the extent that it is applicable. In aid of the judgment or execution, the judgment creditor or a successor in interest when that interest appears of record, may obtain discovery from any person, including the judgment debtor, in the manner provided in these rules or in the manner provided by the practice of the state in which the district court is held.

For the execution practice used by the state of North Carolina, refer to North Carolina General Statute §§ 1-302 et sec.

1. Transcript of Judgment

28 U.S.C. § 1962 provides for every judgment rendered by a district court within a state to become a lien on the judgment debtor's property located in that state in the same manner, and to the same extent and under the same conditions as a judgment of a court of general jurisdiction under state law and shall cease to be a lien in the same manner and time. N.C.G.S. § 1-237 authorizes a federal judgment to be transcribed to the clerk of the superior court where the judgment debtor's property is located for the purpose of creating a lien on the property. N.C.G.S. § 1-237 authorizes each federal clerk to transcribe judgments to any of the 100 superior court clerks in the state. It is the obligation of the judgment creditor to obtain the transcript of judgment from the bankruptcy court if the creditor desires to encumber the property. This is accomplished upon written request and upon payment of a \$5.00 fee.

2. Certification of Judgment for Registration in Another District

28 U.S.C. § 1963 provides for a judgment for recovery of money or property to be registered in any of the federal judicial districts. When done, it then has the same effect as a judgment of the court in which registered. Since the clerk of the bankruptcy court may transcribe a judgment to any of the superior courts in the state, it is not necessary to obtain a certification of judgment when registering a judgment in any of the two other districts in North Carolina. However; when registering a judgment in another state, form B 265, certification of judgment for registration in another district, should be utilized. It is the obligation of the judgment creditor to obtain the certification from the bankruptcy court. This is accomplished upon written request and upon payment of a \$5.00 fee. The current fee for registering the judgment in another district is \$20.00.

3. Bill of Costs

Bankruptcy Rule 7054(b) authorizes the court to allow costs to the prevailing party in an adversary proceeding or contested matter. The procedure generally is for the judgment creditor to present the clerk with a bill of costs, form B 263. The bill contains a declaration to be signed by the attorney attesting to the correctness of the costs sought and a certificate of service of the bill of costs on the judgment debtor. The form includes a blank for the date, time and place for the bill of costs to be presented to the clerk. This court requires the date and time to be approximately seven days beyond the date the bill is mailed to the judgment debtor. The form should be completed with exception of the date and signature of the clerk. Upon allowance, the costs become a part of the judgment and are subject to execution.

4. Notice of Right to Have Exemptions Designated, Motion to Claim Exempt Property, Order Designating Exempt Property

According to N.C.G.S. § 1-305(b), the clerk may not issue an execution unless the judgment debtor's exemptions have been designated, or the judgment debtor has waived his exemptions. In order to notify the judgment debtor of his right to exemptions, a form entitled notice of right to have exemptions designated should be issued by the clerk. The form should be completed with exception of the date and signature and submitted to the clerk for issuance. Once issued, the form will be returned to the judgment creditor for service. Along with the notice, the judgment creditor should serve a form entitled motion to claim exempt property. The notice gives the judgment debtor twenty days from the date of service to file the motion with the court. Once the motion is filed, the judgment creditor will have twenty days to file an objection to the exemptions. Once

any objections have been resolved, an order designating exempt property should be entered. A copy of each referenced form is included for future use.

5. Writ of Execution to the United States Marshall

28 U.S.C. § 566(c) directs the United States Marshall to execute all writs issued under the authority of the United States. The procedure generally is for the judgment creditor to submit the writ of execution (form B 264) to the clerk for issuance. This should only be done after the applicable steps listed above have been finalized. The form should be completed with exception of the date and signature by the clerk. After issuance, the execution will be returned to the judgment creditor for submission to the U. S. Marshall.

28 U.S.C. § 1921 authorizes the U. S. Marshall to collect a fee for serving a writ of execution.

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